

**AUTHORIZATION TO DISCHARGE WASTEWATER UNDER
THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM AND
THE ARKANSAS WATER AND AIR POLLUTION CONTROL ACT**

In accordance with the provisions of the Arkansas Water and Air Pollution Control Act (Ark. Code Ann. 8-4-101 et seq.), and the Clean Water Act (33 U.S.C. § 1251 et seq.),

City of Fort Smith
Massard Wastewater Treatment Facility

is authorized to discharge treated municipal wastewater from a facility located as follows: 1609 North 9th Street, Barling, AR 72923. Driving directions: State Highway 22 east to Barling, then left on "H" Street to 4-way stop, then turn left on North 9th Street to plant entrance located 3/4 mile north of State Highway 22, in Sebastian County, Arkansas. The applicant's mailing address is: 3900 Kelley Highway, Fort Smith, AR 72904.

Facility Coordinates: Latitude: 35° 20' 25.65"; Longitude: 94° 18' 19.92"

Receiving stream: from the plant site through a 36-inch line to the Arkansas River at Pool 13 approximately 800 feet west of Lock and Dam 13 in Segment 3H of the Arkansas River Basin.

The permitted outfall is located at the following coordinates:

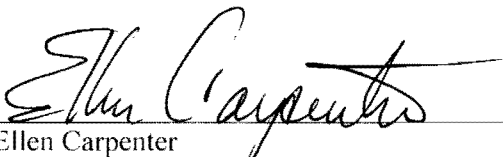
Outfall 001: Latitude: 35° 21' 03.7"; Longitude: 94° 18' 02.4"

Discharge shall be in accordance with effluent limitations, monitoring requirements, and other conditions set forth in this permit. Per Part III.D.10, the permittee must re-apply on or before 180 days prior to the expiration date of the permit for permit coverage past the expiration date.

Response to Comments is attached.

Effective Date: February 1, 2015

Expiration Date: January 31, 2020



Ellen Carpenter
Chief, Water Division
Arkansas Department of Environmental Quality


Issue Date

PART I PERMIT REQUIREMENTS

SECTION A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS: OUTFALL 001 - treated municipal wastewater.

During the period beginning on the effective date and lasting until the date of expiration, the permittee is authorized to discharge from Outfall 001. Such discharges shall be limited and monitored by the permittee as specified below as well as Parts II and III. See Part IV for all definitions and calculations.

Effluent Characteristics	Discharge Limitations			Monitoring Requirements	
	Mass (lbs/day, unless otherwise specified)	Concentration (mg/l, unless otherwise specified)		Frequency	Sample Type
	Monthly Avg.	Monthly Avg.	7-Day Avg.		
Flow	N/A	Report, MGD	Report, MGD (Daily Maximum)	once/day	totalizing meter
Overflows	Monthly Total SSOs (occurrences/month)			See Comments ¹	
Overflow Volume	Monthly Total Volume of SSOs (gallons/month)			See Comments ¹	
Biochemical Oxygen Demand (BOD5)					
(Nov-Apr)	2502	30	45	once/weekday	composite ⁵
Carbonaceous Biochemical Oxygen Demand (CBOD5)					
(May-Oct)	2085	25	37.5	once/weekday	composite ⁵
Total Suspended Solids (TSS)	2502	30	45	once/weekday	composite ⁵
Ammonia Nitrogen (NH3-N)					
(May-Oct)	417	5	7.5	once/weekday	composite ⁵
Dissolved Oxygen (DO) ⁴	N/A	2.0 (Inst. Min.)		once/weekday	grab
Fecal Coliform Bacteria (FCB)		(colonies/100ml)			
(Apr-Sept)	N/A	200	400	once/weekday	grab
(Oct-Mar)	N/A	1000	2000	once/weekday	grab
Cyanide, Total Recoverable ²	5.9	71 µg/l	142 µg/l	once/quarter	grab
Total Phosphorus (TP)	Report	Report	Report	once/month	composite ⁵
Nitrate + Nitrite Nitrogen (NO3 + NO2-N)	Report	Report	Report	once/month	composite ⁵
pH	N/A	Minimum 6.0 s.u.	Maximum 9.0 s.u.	once/weekday	grab
Chronic WET Testing ³	N/A	Report		once/quarter	24-hr composite ⁶
Pimephales promelas (Chronic) ³ Pass/Fail Lethality (7-day NOEC) TLP6C Pass/Fail Growth (7-day NOEC)TGP6C Survival (7-day NOEC) TOP6C Coefficient of Variation (Growth) TQP6C		7-Day Average Report (Pass=0/Fail=1) Report (Pass=0/Fail=1) Report % Report %		once/quarter once/quarter once/quarter once/quarter	24-hr composite ⁶ 24-hr composite ⁶ 24-hr composite ⁶ 24-hr composite ⁶

<u>Effluent Characteristics</u>	<u>Discharge Limitations</u>			<u>Monitoring Requirements</u>	
	Mass (lbs/day, unless otherwise specified)	Concentration (mg/l, unless otherwise specified)		Frequency	Sample Type
		Monthly Avg.	Monthly Avg. 7-Day Avg.		
Growth (7-day NOEC) TPP6C		Report %		once/quarter	24-hr composite ⁶
<u>Ceriodaphnia dubia (Chronic)</u> ³		<u>7-Day Average</u>			
Pass/Fail Lethality (7-day NOEC) TLP3B		Report (Pass=0/Fail=1)		once/quarter	24-hr composite ⁶
Pass/Fail production (7-day NOEC) TGP3B		Report (Pass=0/Fail=1)		once/quarter	24-hr composite ⁶
Survival (7-day NOEC) TOP3B		Report %		once/quarter	24-hr composite ⁶
Coefficient of Variation (Reproduction) TQP3B		Report %		once/quarter	24-hr composite ⁶
Reproduction (7-day NOEC) TPP3B		Report %		once/quarter	24-hr composite ⁶

1 See Condition No. 5 of Part II (SSO Condition). If there are no overflows during the entire month, report "zero" (0).

2 See Condition No. 7 of Part II. (MQL Condition).

3 See Condition No. 10 of Part II (WET Testing Condition).

4 See item #13 of Part IV (Dissolved Oxygen Limit)

5 Composite sample for BOD5, CBOD5, TSS, NH3-N, TP, and NO3+NO2-N is defined in Part IV of this permit.

6 24-hr composite sample for Chronic WET testing is defined in Part II.10 of this permit.

There shall be no discharge of distinctly visible solids, scum, or foam of a persistent nature, nor shall there be any formation of slime, bottom deposits, or sludge banks. There shall be no visible sheen as defined in Part IV of this permit.

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge during the entire monitoring period. Samples shall be taken after final treatment (UV disinfection unit).

SECTION B. PERMIT COMPLIANCE SCHEDULE

- A. The permittee shall submit item (1) or (2) listed below, within sixty (60) days of the effective date of this permit,
- (1) a WRITTEN CERTIFICATION that a technical evaluation has demonstrated that the existing technically based local limits (TBLL) are based on current state water quality standards and are adequate to prevent pass through of pollutants, inhibition of or interference with the treatment facility, worker health and safety problems, and sludge contamination; OR
 - (2) a WRITTEN NOTIFICATION that a technical evaluation revising the current TBLL will be submitted within 12 months of the effective date of this permit.
- B. The permittee shall submit an updated pretreatment program status report by October 31st of each year. The report shall contain the items set forth in Part II.9.d of this permit.

PART II OTHER CONDITIONS

1. The operator of this wastewater treatment facility shall be licensed as Class IV by the State of Arkansas in accordance with APCEC Regulation No. 3.
2. For publicly owned treatment works, the 30-day average percent removal for Biochemical Oxygen Demand (BOD5), Carbonaceous Biochemical Oxygen Demand (CBOD5), and Total Suspended Solids (TSS) shall not be less than 85 percent unless otherwise authorized by the permitting authority in accordance with 40 CFR Part 133.102, as adopted by reference in APCEC Regulation No. 6. The permittee must monitor the influent and effluent of either BOD5 or CBOD5, and TSS at least once per year and calculate the percent removal to ensure compliance with the required 85 percent removal. This information must be maintained on site and provided to Department personnel upon request.
3. In accordance with 40 CFR Parts 122.62 (a)(2) and 124.5, this permit may be reopened for modification or revocation and/or reissuance to require additional monitoring and/or effluent limitations when new information is received that actual or potential exceedance of State water quality criteria and/or narrative criteria are determined to be the result of the permittee's discharge(s) to a relevant water body or a Total Maximum Daily Load (TMDL) is established or revised for the water body that was not available at the time of the permit issuance that would have justified the application of different permit conditions at the time of permit issuance.
4. Other Specified Monitoring Requirements

The permittee may use alternative appropriate monitoring methods and analytical instruments other than as specified in Part I Section A of the permit without a major permit modification under the following conditions:

- The monitoring and analytical instruments are consistent with accepted scientific practices;
- The requests shall be submitted in writing to the Permits Section of the Water Division of the ADEQ for use of the alternate method or instrument.
- The method and/or instrument is in compliance with 40 CFR Part 136 or approved in accordance with 40 CFR Part 136.5; and
- All associated devices are installed, calibrated, and maintained to insure the accuracy of the measurements and are consistent with the accepted capability of that type of device. The calibration and maintenance shall be performed as part of the permittee's laboratory Quality Control/Quality Assurance program.

Upon written approval of the alternative monitoring method and/or analytical instruments, these methods or instruments must be consistently utilized throughout the monitoring period. ADEQ must be notified in writing and the permittee must receive written approval from ADEQ if the permittee decides to return to the original permit monitoring requirements.

5. Sanitary Sewer Overflow (SSO) Reporting Requirements:

All SSOs are prohibited.

A. A sanitary sewer overflow is any spill, release or diversion of wastewater from a sanitary sewer collection system including:

1. Any overflow, whether it discharges to the waters of the state or not; or
2. An overflow of wastewater, including a wastewater backup into a building (other than a backup caused solely by a blockage or other malfunction in a privately owned sewer or building lateral), even if that overflow does not reach waters of the state.

B. Immediate Reporting

Overflows that endanger health or the environment shall be orally reported to the Enforcement Branch of the Water Division by telephone (501-682-0638) or by email waterenfssso@adeq.state.ar.us within 24 hours from the time the permittee becomes aware of the circumstance.

C. Follow-Up Written Reports/email:

A written report of overflows that endanger health or the environment shall be provided to ADEQ within 5 days of the time the permittee becomes aware of the circumstance.

At a minimum, the report shall identify:

1. The location(s) of overflow;
2. The receiving water (If there is one);
3. The duration of overflow;
4. Cause of overflow; and
5. The estimated volume of overflow (gal).

A 24-hr and 5-day follow-up written report can be filled-in or downloaded from the ADEQ /Water Division/Enforcement Branch Web page at

http://www.adeq.state.ar.us/water/branch_enforcement/forms/ssso_report.asp

D. Reporting for All SSOs on DMR

At the end of the month, total the daily occurrences and volumes from all locations on your system and report this number on the DMR. For counting occurrences, each location on the sanitary sewer system where there is an overflow, spill, release, or diversion of wastewater on a given day is counted as one occurrence. For example, if on a given day overflows occur from a manhole at one location and from a damaged pipe at another location then you should record two occurrences for that day.

6. Best Management Practices (BMPs), as defined in Part IV.6, must be implemented for the facility along with the collection system to prevent or reduce the pollution of waters of the State from stormwater runoff, spills or leaks, sludge or waste disposal, or drainage from raw sewage. The permittee must amend the BMPs whenever there is a change in the facility or a change in the operation of the facility.
7. The permittee may use any EPA approved method based on 40 CFR Part 136 provided the MQL for the chosen method is equal to or less than what has been specified in chart below:

Pollutant	MQL (µg/l)
Cyanide, Total Recoverable	10

The permittee may develop a matrix specific method detection limit (MDL) in accordance with Appendix B of 40 CFR Part 136. For any pollutant for which the permittee determines a site specific MDL, the permittee shall send to ADEQ, NPDES Permits Branch, a report containing QA/QC documentation, analytical results, and calculations necessary to demonstrate that a site specific MDL was correctly calculated. A site specific minimum quantification level (MQL) shall be determined in accordance with the following calculation:

$$\text{MQL} = 3.3 \times \text{MDL}$$

Upon written approval by Permits Branch, the site specific MQL may be utilized by the permittee for all future Discharge Monitoring Report (DMR) calculations and reporting requirements.

8. SLUDGE DISPOSAL PRACTICES

Sludge generated by the wastewater treatment process is dewatered onsite using a belt press and disposed of in the Fort Smith Sanitary Landfill under Solid Waste Permit No. 0267-S1-R1.

9. CONTRIBUTING INDUSTRIES AND PRETREATMENT REQUIREMENTS

- a. The permittee shall operate an industrial pretreatment program in accordance with Section 402(b)(8) of the Clean Water Act, the General Pretreatment Regulations (40 CFR Part 403) and the approved POTW pretreatment program submitted by the permittee. The pretreatment program was approved on August 31, 1985, modified on December 5, 1997 and modified again on December 21, 2012. The POTW pretreatment program is hereby incorporated by reference and shall be implemented in a manner consistent with the following requirements:

- (1) Industrial user information shall be updated at a frequency adequate to ensure that all IUs are properly characterized at all times;

- (2) The frequency and nature of industrial user compliance monitoring activities by the permittee shall be commensurate with the character, consistency and volume of waste. The permittee must inspect and sample the effluent from each Significant Industrial User in accordance with 40 CFR 403.8(f)(2)(v). This is in addition to any industrial self-monitoring activities;
- (3) The permittee shall enforce and obtain remedies for noncompliance by any industrial users with applicable pretreatment standards and requirements;
- (4) The permittee shall control through permit, order, or similar means, the contribution to the POTW by each Industrial User to ensure compliance with applicable Pretreatment Standards and Requirements. In the case of Industrial Users identified as significant under 40 CFR 403.3 (v), this control shall be achieved through individual control mechanisms, in accordance with 40 CFR 403.8(f)(1)(iii). Control mechanisms must be enforceable and contain, at a minimum, the following conditions:
 - (a) Statement of duration (in no case more than five years);
 - (b) Statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;
 - (c) Effluent limits, including Best Management Practices, based on applicable general Pretreatment Standards, categorical Pretreatment Standards, local limits, and State and local law;
 - (d) Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored sampling location, sampling frequency, and sample type, based on the applicable general Pretreatment Standards in 40 CFR 403, categorical Pretreatment Standards, local limits, and State and local law;
 - (e) Statement of applicable civil and criminal penalties for violation of Pretreatment Standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond federal deadlines; and
 - (f) Requirements to control slug discharges, if determined by the POTW to be necessary.
- (5) The permittee shall evaluate, whether each Significant Industrial User needs a plan or other action to control slug discharges, in accordance with 40 CFR 403.8(f)(2)(vi);
- (6) The permittee shall provide adequate staff, equipment, and support capabilities to carry out all elements of the pretreatment program; and

(7) The approved program shall not be modified by the permittee without the prior approval of ADEQ.

- b. The permittee shall establish and enforce specific limits to implement the provisions of 40 CFR Parts 403.5(a) and (b), as required by 40 CFR Part 403.5(c). POTWs may develop Best Management Practices (BMPs) to implement paragraphs 40 CFR 403.5 (c)(1) and (c)(2). Such BMPs shall be considered local limits and Pretreatment Standards. Each POTW with an approved pretreatment program shall continue to develop these limits as necessary and effectively enforce such limits.

The permittee shall submit, within sixty (60) days of the effective date of this permit, (1) a **WRITTEN CERTIFICATION** that a technical evaluation has demonstrated that the existing technically based local limits (TBLL) are based on current state water quality standards and are adequate to prevent pass through of pollutants, inhibition of or interference with the treatment facility, worker health and safety problems, and sludge contamination, OR (2) a **WRITTEN NOTIFICATION** that a technical evaluation revising the current TBLL will be submitted within 12 months of the effective date of this permit.

All specific prohibitions or limits developed under this requirement are deemed to be conditions of this permit. The specific prohibitions set out in 40 CFR Part 403.5(b) shall be enforced by the permittee unless modified under this provision.

- c. The permittee shall analyze the treatment facility influent and effluent for the presence of the toxic pollutants listed in 40 CFR 122 Appendix D (NPDES Application Testing Requirements) Table II at least once/year and the toxic pollutants in Table III at least 4 times/year (quarterly). If, based upon information available to the permittee, there is reason to suspect the presence of any toxic or hazardous pollutant listed in Table V, or any other pollutant, known or suspected to adversely affect treatment plant operation, receiving water quality, or solids disposal procedures, analysis for those pollutants shall be performed at least 4 times/year (quarterly) on both the influent and the effluent.

The influent and effluent samples collected shall be composite samples consisting of at least 12 aliquots collected at approximately equal intervals over a representative 24 hour period and composited according to flow. Sampling and analytical procedures shall be in accordance with guidelines established in 40 CFR 136. Where composite samples are inappropriate, due to sampling, holding time, or analytical constraints, at least 4 grab samples, taken at equal intervals over a representative 24 hour period, shall be taken.

- d. The permittee shall prepare annually a list of Industrial Users which during the preceding twelve months (the Pretreatment "Reporting Year") were in significant noncompliance with applicable pretreatment requirements. For the purposes of this Part, significant noncompliance shall be determined based upon the more stringent of either criteria established at 40 CFR Part 403.8(f)(2)(viii) or criteria established in the approved POTW pretreatment program. This list is to be published annually, during the month of October,

in the newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW.

Note: For permittees with multiple NPDES permits, only one (1) updated pretreatment program status report ("Annual Report") is required. The annual report shall reference the Tracking NPDES permit number AR0021750 covered for the permittee's approved Pretreatment Program.

In addition, by 4:30 pm (if electronically submitted) OR postmarked on or before the last business day in the month of October the permittee shall submit an updated pretreatment program status report to the ADEQ containing the following information:

1. An updated list of all significant industrial users. The list must also identify:
 - (a) Industrial Users subject to the following categorical Pretreatment Standards [Organic Chemicals, Plastics, and Synthetic Fibers (OCPSF) (40 CFR Part 414), Petroleum Refining (40 CFR Part 419), and Pesticide Chemicals (40 CFR Part 455)] and for which the Control Authority has chosen to use the concentration-based standards rather than converting them to flow-based mass standards as allowed at 40 CFR 403.6(c)(6).
 - (b) Categorical Industrial Users subject to concentration-based standards for which the Control Authority has chosen to convert the concentration-based standards to equivalent mass limits, as allowed at 40 CFR 403.6(c)(5).
 - (c) Best Management Practices or Pollution Prevention alternatives required by a categorical Pretreatment Standard or as a local limit requirement that are implemented and documentation to demonstrate compliance, as required at 40 CFR 403 (b), (e) and (h).
2. For each industrial user listed the following information shall be included:
 - (a) Standard Industrial Classification (SIC) and North American Industry Classification System (NAICS) code and categorical determination;
 - (b) Control document status. Whether the user has an effective control document, and the date such document was last issued, reissued, or modified, (indicate which industrial users were added to the system (or newly identified) within the previous 12 months);
 - (c) A summary of all monitoring activities performed within the previous 12 months. The following information shall be reported:
 - total number of inspections performed;
 - total number of sampling visits made;

(d) Status of compliance with both effluent limitations and reporting requirements. Compliance status shall be defined as follows:

- Compliant (C) - no violations during the previous 12 month period;
- Non-compliant (NC) - one or more violations during the previous 12 months but does not meet the criteria for significantly noncompliant industrial users;
- Significant Noncompliance (SNC) - in accordance with requirements described in d. above; and

(e) For significantly noncompliant industrial users, indicate the nature of the violations, the type and number of actions taken (notice of violation, administrative order, criminal or civil suit, fines or penalties collected, etc.) and current compliance status. If ANY industrial user was on a schedule to attain compliance with effluent limits, indicate the date the schedule was issued and the date compliance is to be attained;

- (1) A list of all significant industrial users whose authorization to discharge was terminated or revoked during the preceding 12 month period and the reason for termination;
- (2) A report on any interference, pass through, upset or POTW permit violations known or suspected to be caused by industrial contributors and actions taken by the permittee in response;
- (3) The results of all influent and effluent analyses performed pursuant to paragraph c. above;
- (4) An influent/effluent summary chart containing the monthly average water quality based effluent concentration demonstrating compliance with permit limits or the water quality levels not to exceed as developed in the permittee's approved technically based local limits document.
- (5) The information requested may be submitted in tabular form as per the example tables provided for your convenience (See Attachment A, B and C); and
- (6) A copy of the newspaper publication of the significantly noncompliant industrial users giving the name of the newspaper and the date published;

e. The permittee shall provide adequate notice of the following:

- (1) Any new introduction of pollutants into the treatment works from an indirect discharger which would be subject to Sections 301 and 306 of the Act if it were directly discharging those pollutants; and

- (2) Any substantial change in the volume or character of pollutants being introduced into the treatment works by a source introducing pollutants into the treatment works at the time of issuance of the permit.

Adequate notice shall include information on (i) the quality and quantity of effluent to be introduced into the treatment works, and (ii) any anticipated impact of the change on the quality or quantity of effluent to be discharged from the POTW.

10. WHOLE EFFLUENT TOXICITY TESTING (7-DAY CHRONIC NOEC FRESHWATER)

1. SCOPE AND METHODOLOGY

- a. The permittee shall test the effluent for toxicity in accordance with the provisions in this section.

APPLICABLE TO FINAL OUTFALL(S):	001
REPORTED ON DMR AS FINAL OUTFALL:	001
CRITICAL DILUTION (%):	7 %
EFFLUENT DILUTION SERIES (%):	3%, 4%, 5%, 7%, 9%
TESTING FREQUENCY	once/quarter
COMPOSITE SAMPLE TYPE:	Defined at PART I
TEST SPECIES/METHODS:	40 CFR Part 136

Ceriodaphnia dubia chronic static renewal survival and reproduction test, Method 1002.0, EPA-821-R-02-013, or the most recent update thereof. This test should be terminated when 60% of the surviving females in the control produce three broods or at the end of eight days, whichever comes first.

Pimephales promelas (Fathead minnow) chronic static renewal 7-day larval survival and growth test, Method 1000.0, EPA-821-R-02-013, or the most recent update thereof. A minimum of five (5) replicates with eight (8) organisms per replicate must be used in the control and in each effluent dilution of this test.

- b. The NOEC (No Observed Effect Concentration) is herein defined as the greatest effluent dilution at and below which toxicity (lethal or sub-lethal) that is statistically different from the control (0% effluent) at the 95% confidence level does not occur. Chronic lethal test failure is defined as a

demonstration of a statistically significant lethal effect at test completion to a test species at or below the critical dilution. Chronic sub-lethal test failure is defined as a demonstration of a statistically significant sub-lethal effect (i.e., growth or reproduction) at test completion to a test species at or below the critical dilution.

- c. This permit may be reopened to require whole effluent toxicity limits, chemical specific effluent limits, additional testing, and/or other appropriate actions to address toxicity.

2. PERSISTENT LETHAL and/or SUB-LETHAL EFFECTS

The requirements of this subsection apply only when a toxicity test demonstrates significant lethal and/or sub-lethal effects at or below the critical dilution. The purpose of additional tests (also referred to as 'retests' or confirmation tests) is to determine the duration of a toxic event. A test that meets all test acceptability criteria and demonstrates significant toxic effects does not need additional confirmation. Such testing cannot confirm or disprove a previous test result.

If a frequency reduction, as specified in Item 6, has been granted and any subsequent valid test demonstrates significant lethal or sub-lethal effects to a test species at or below the critical dilution, the frequency of testing for that species is automatically increased to once per quarter for the life of the permit. In addition:

a. Part I Testing Frequency Other Than Monthly

- i. The permittee shall conduct a total of three (3) additional tests for any species that demonstrates significant toxic effects at or below the critical dilution. The additional tests shall be conducted monthly during the next three consecutive months. If testing on a quarterly basis, the permittee may substitute one of the additional tests in lieu of one routine toxicity test. A full report shall be prepared for each test required by this section in accordance with procedures outlined in Item 4 of this section and submitted with the period discharge monitoring report (DMR) to the permitting authority for review.
- ii. **IF LETHAL EFFECTS HAVE BEEN DEMONSTRATED** If any of the additional tests demonstrates significant lethal effects at or below the critical dilution, the permittee shall initiate Toxicity Reduction Evaluation (TRE) requirements as specified in Item 5 of this section. The permittee shall notify ADEQ in writing within 5 days of the failure of any retest, and the TRE initiation date will be the test completion date of the first failed retest. A TRE may also be required due to a demonstration of intermittent lethal effects at or below the critical dilution, or for failure to perform the required

retests. A TRE required based on lethal effects should consider any sub-lethal effects as well.

- iii. IF SUB-LETHAL EFFECTS ONLY HAVE BEEN DEMONSTRATED If any two of the three additional tests demonstrates significant sub-lethal effects at 75% effluent or lower, the permittee shall initiate the Sub-Lethal Toxicity Reduction Evaluation (TRE_{SL}) requirements as specified in Item 5 of this section. The permittee shall notify ADEQ in writing within 5 days of the failure of any retest, and the Sub-Lethal Effects TRE initiation date will be the test completion date of the first failed retest. A TRE may also be required for failure to perform the required retests.
- iv. The provisions of Item 2.a.i. are suspended upon submittal of the TRE Action Plan.

b. Part I Testing Frequency of Monthly

The permittee shall initiate the Toxicity Reduction Evaluation (TRE) requirements as specified in Item 5 of this section when any two of three consecutive monthly toxicity tests exhibit significant toxic effects at or below the critical dilution. A TRE may also be required due to a demonstration of intermittent lethal and/or sub-lethal effects at or below the critical dilution, or for failure to perform the required retests.

3. REQUIRED TOXICITY TESTING CONDITIONS

a. Test Acceptance

The permittee shall repeat a test, including the control and all effluent dilutions, if the procedures and quality assurance requirements defined in the test methods or in this permit are not satisfied, including the following additional criteria:

- i. The toxicity test control (0% effluent) must have survival equal to or greater than 80%.
- ii. The mean number of Ceriodaphnia dubia neonates produced per surviving female in the control (0% effluent) must be 15 or more.
- iii. 60% of the surviving control females must produce three broods. The mean dry weight of surviving Fathead minnow larvae at the end of the 7 days in the control (0% effluent) must be 0.25 mg per larva or greater.

- iv. The percent coefficient of variation between replicates shall be 40% or less in the control (0% effluent) for: the young of surviving females in the Ceriodaphnia dubia reproduction test; the growth and survival endpoints of the Fathead minnow test.
- v. The percent coefficient of variation between replicates shall be 40% or less in the critical dilution, unless significant lethal or sub-lethal effects are exhibited for: the young of surviving females in the Ceriodaphnia dubia reproduction test; the growth and survival endpoints of the Fathead minnow test.
- vi. If a test passes, yet the percent coefficient of variation between replicates is greater than 40% in the control (0% effluent) and/or in the critical dilution for: the young of surviving females in the Ceriodaphnia dubia reproduction test; the growth and survival endpoints of the Fathead minnow test, the test is determined to be invalid. A repeat test shall be conducted within the required reporting period of any test determined to be invalid.
- vii. If a test fails, test failure may not be construed or reported as invalid due to a coefficient of variation value of greater than 40%.
- viii. A Percent Minimum Significant Difference (PMSD) range of 13 - 47 for Ceriodaphnia dubia reproduction;
- ix. A PMSD range of 12 - 30 for Fathead minnow growth.

b. Statistical Interpretation

- i. For the Ceriodaphnia dubia survival test, the statistical analyses used to determine if there is a significant difference between the control and the critical dilution shall be Fisher's Exact Test as described in EPA/821/R-02-013 or the most recent update thereof.
- ii. For the Ceriodaphnia dubia reproduction test and the Fathead minnow larval survival and growth test, the statistical analyses used to determine if there is a significant difference between the control and the critical dilution shall be in accordance with the methods for determining the No Observed Effect Concentration (NOEC) as described in EPA/821/R-02-013 or the most recent update thereof.
- iii. If the conditions of Test Acceptability are met in Item 3.a above and the percent survival of the test organism is equal to or greater than 80% in the critical dilution concentration and all lower dilution concentrations, the test shall be considered to be a passing

test, and the permittee shall report a survival NOEC of not less than the critical dilution for the DMR reporting requirements found in Item 4 below.

c. Dilution Water

- i. Dilution water used in the toxicity tests will be receiving water collected as close to the point of discharge as possible but unaffected by the discharge. The permittee shall substitute synthetic dilution water of similar pH, hardness, and alkalinity to the closest downstream perennial water for;
 - (A) toxicity tests conducted on effluent discharges to receiving water classified as intermittent streams; and
 - (B) toxicity tests conducted on effluent discharges where no receiving water is available due to zero flow conditions.
- ii. If the receiving water is unsatisfactory as a result of instream toxicity (fails to fulfill the test acceptance criteria of Item 3.a), the permittee may substitute synthetic dilution water for the receiving water in all subsequent tests provided the unacceptable receiving water test met the following stipulations:
 - (A) a synthetic dilution water control which fulfills the test acceptance requirements of Item 3.a was run concurrently with the receiving water control;
 - (B) the test indicating receiving water toxicity has been carried out to completion (i.e., 7 days);
 - (C) the permittee includes all test results indicating receiving water toxicity with the full report and information required by Item 4 below; and
 - (D) the synthetic dilution water shall have a pH, hardness, and alkalinity similar to that of the receiving water or closest downstream perennial water not adversely affected by the discharge, provided the magnitude of these parameters will not cause toxicity in the synthetic dilution water.

d. Samples and Composites

- i. The permittee shall collect a minimum of three flow-weighted composite samples from the outfall(s) listed at Item 1.a above. Unless otherwise stated in this section, a composite sample for

WET shall consist of a minimum of 12 subsamples gathered at equal time intervals during a 24-hour period.

- ii. The permittee shall collect second and third composite samples for use during 24-hour renewals of each dilution concentration for each test. The permittee must collect the composite samples such that the effluent samples, on use, are representative of any periodic episode of chlorination, biocide usage or other potentially toxic substance discharged on a regular or intermittent basis.
- iii. The permittee must collect all three flow-weighted composite samples within the monitoring period. Second and/or third composite samples shall not be collected into the next monitoring period; such tests will be determined to be invalid. Monitoring period definitions are listed in Part IV.
- iv. The permittee must collect the composite samples so that the maximum holding time for any effluent sample shall not exceed 72 hours. The permittee must have initiated the toxicity test within 36 hours after the collection of the last portion of the first composite sample. Samples shall be chilled to between 0 and 6 degrees Centigrade during collection, shipping, and/or storage.
- v. If the flow from the outfall(s) being tested ceases during the collection of effluent samples, the requirements for the minimum number of effluent samples, the minimum number of effluent portions and the sample holding time are waived during that sampling period. However, the permittee must have collected an effluent composite sample volume during the period of discharge that is sufficient to complete the required toxicity tests with daily renewal of effluent. When possible, the effluent samples used for the toxicity tests shall be collected on separate days if the discharge occurs over multiple days. The effluent composite sample collection duration and the static renewal protocol associated with the abbreviated sample collection must be documented in the full report required in Item 4 of this section.
- vi. MULTIPLE OUTFALLS: If the provisions of this section are applicable to multiple outfalls, the permittee shall combine the composite effluent samples in proportion to the average flow from the outfalls listed in item 1.a. above for the day the sample was collected. The permittee shall perform the toxicity test on the flow-weighted composite of the outfall samples.
- vii. If chlorination is part of the treatment process, the permittee shall not allow the sample to be dechlorinated at the laboratory. At the

time of sample collection the permittee shall measure the TRC of the effluent. The measured concentration of TRC for each sample shall be included in the lab report submitted by the permittee.

4. REPORTING

- a. The permittee shall prepare a full report of the results of all tests conducted pursuant to this section in accordance with the Report Preparation Section of EPA/821/R-02-013, or the most current publication, for every valid or invalid toxicity test initiated whether carried to completion or not. The permittee shall retain each full report pursuant to the provisions of PART III.C.7 of this permit. The permittee shall submit full reports. For any test which fails, is considered invalid or which is terminated early for any reason, the full report must be submitted for agency review.
- b. A valid test for each species must be reported on the DMR during each reporting period specified in PART I of this permit unless the permittee is performing a TRE which may increase the frequency of testing and reporting. Only ONE set of WET test data for each species is to be recorded on the DMR for each reporting period. The data submitted should reflect the LOWEST lethal and sub-lethal effects results for each species during the reporting period. The full reports for all invalid tests, repeat tests (for invalid tests), and retests (for tests previously failed) performed during the reporting period must be attached to the DMR for Agency review.
- c. The permittee shall submit the results of each valid toxicity test on the subsequent monthly DMR for that reporting period in accordance with PART III.D.4 of this permit, as follows below. Submit retest information clearly marked as such with the following month's DMR. Only results of valid tests are to be reported on the DMR.
 - i. Pimephales promelas (Fathead minnow)
 - (a) If the No Observed Effect Concentration (NOEC) for survival is less than the critical dilution, enter a '1'; otherwise, enter a '0' for Parameter No. TLP6C
 - (b) Report the NOEC value for survival, Parameter No. TOP6C
 - (c) Report the NOEC value for growth, Parameter No. TPP6C
 - (d) If the NOEC for growth is less than the critical dilution, enter a '1'; otherwise, enter a '0' for Parameter No. TGP6C

- (e) Report the highest (critical dilution or control) Coefficient of Variation for growth, Parameter No. TQP6C
- ii. Ceriodaphnia dubia
 - (a) the NOEC for survival is less than the critical dilution, enter a '1'; otherwise, enter a '0' for Parameter No. TLP3B
 - (b) Report the NOEC value for survival, Parameter No. TOP3B
 - (c) Report the NOEC value for reproduction, Parameter No. TPP3B
 - (d) If the NOEC for reproduction is less than the critical dilution, enter a '1'; otherwise, enter a '0' for Parameter No. TGP3B
 - (e) Report the higher (critical dilution or control) Coefficient of Variation for reproduction, Parameter No. TQP3B

5. TOXICITY REDUCTION EVALUATIONS (TREs)

TREs for lethal and sub-lethal effects are performed in a very similar manner. EPA Region 6 is currently addressing TREs as follows: a sub-lethal TRE (TRE_{SL}) is triggered based on three sub-lethal test failures while a lethal effects TRE (TRE_L) is triggered based on only two test failures for lethality. In addition, EPA Region 6 will consider the magnitude of toxicity and use flexibility when considering a TRE_{SL} where there are no effects at effluent dilutions of 75% or lower.

- a. Within ninety (90) days of confirming persistent toxicity, the permittee shall submit a Toxicity Reduction Evaluation (TRE) Action Plan and Schedule for conducting a TRE. The TRE Action Plan shall specify the approach and methodology to be used in performing the TRE. A Toxicity Reduction Evaluation is an investigation intended to determine those actions necessary to achieve compliance with water quality-based effluent limits by reducing an effluent's toxicity to an acceptable level. A TRE is defined as a step-wise process which combines toxicity testing and analyses of the physical and chemical characteristics of a toxic effluent to identify the constituents causing effluent toxicity and/or treatment methods which will reduce the effluent toxicity. The goal of the TRE is to maximally reduce the toxic effects of effluent at the critical dilution and includes the following:
 - i. Specific Activities. The plan shall detail the specific approach the

permittee intends to utilize in conducting the TRE. The approach may include toxicity characterizations, identifications and confirmation activities, source evaluation, treatability studies, or alternative approaches. When the permittee conducts Toxicity Characterization Procedures the permittee shall perform multiple characterizations and follow the procedures specified in the documents 'Methods for Aquatic Toxicity Identification Evaluations: Phase I Toxicity Characterization Procedures' (EPA-600/6-91/003) and 'Toxicity Identification Evaluation: Characterization of Chronically Toxic Effluents, Phase I' (EPA-600/6-91/005F), or alternate procedures. When the permittee conducts Toxicity Identification Evaluations and Confirmations, the permittee shall perform multiple identifications and follow the methods specified in the documents 'Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity' (EPA/600/R-92/080) and 'Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity' (EPA/600/R-92/081), as appropriate.

The documents referenced above may be obtained through the National Technical Information Service (NTIS) by phone at (703) 487-4650, or by writing:

U.S. Department of Commerce
National Technical Information Service
5285 Port Royal Road
Springfield, VA 22161

- ii. Sampling Plan (e.g., locations, methods, holding times, chain of custody, preservation, etc.). The effluent sample volume collected for all tests shall be adequate to perform the toxicity test, toxicity characterization, identification and confirmation procedures, and conduct chemical specific analyses when a probable toxicant has been identified;

Where the permittee has identified or suspects specific pollutant(s) and/or source(s) of effluent toxicity, the permittee shall conduct, concurrent with toxicity testing, chemical specific analyses for the identified and/or suspected pollutant(s) and/or source(s) of effluent toxicity. Where lethality was demonstrated within 48 hours of test initiation, each composite sample shall be analyzed independently. Otherwise the permittee may substitute a composite sample, comprised of equal portions of the individual composite samples, for the chemical specific analysis;

- iii. Quality Assurance Plan (e.g., QA/QC implementation, corrective actions, etc.); and
- iv. Project Organization (e.g., project staff, project manager, consulting services, etc.).
- b. The permittee shall initiate the TRE Action Plan within thirty (30) days of plan and schedule submittal. The permittee shall assume all risks for failure to achieve the required toxicity reduction.
- c. The permittee shall submit a quarterly TRE Activities Report, with the Discharge Monitoring Report in the months of January, April, July and October, containing information on toxicity reduction evaluation activities including:
 - 1. any data and/or substantiating documentation which identifies the pollutant(s) and/or source(s) of effluent toxicity;
 - 2. any studies/evaluations and results on the treatability of the facility's effluent toxicity; and
 - 3. any data which identifies effluent toxicity control mechanisms that will reduce effluent toxicity to the level necessary to meet no significant toxicity at the critical dilution.
- d. The permittee shall submit a Final Report on Toxicity Reduction Evaluation Activities no later than twenty-eight (28) months from confirming toxicity in the retests, which provides information pertaining to the specific control mechanism selected that will, when implemented, result in reduction of effluent toxicity to no significant toxicity at the critical dilution. The report will also provide a specific corrective action schedule for implementing the selected control mechanism.
- e. Quarterly testing during the TRE is a minimum monitoring requirement. EPA recommends that permittees required to perform a TRE not rely on quarterly testing alone to ensure success in the TRE, and that additional screening tests be performed to capture toxic samples for identification of toxicants. Failure to identify the specific chemical compound causing toxicity test failure will normally result in a permit limit for whole effluent toxicity limits per federal regulations at 40 CFR 122.44(d)(1)(v).

6. MONITORING FREQUENCY REDUCTION

- a. The permittee may apply for a testing frequency reduction upon the successful completion of the first four consecutive quarters or first twelve

consecutive months (in accordance with Item 1.a.) of testing for one or both test species, with no lethal or sub-lethal effects demonstrated at or below the critical dilution. If granted, the monitoring frequency for that test species may be reduced to not less than once per year for the less sensitive species (usually the Fathead minnow) and not less than twice per year for the more sensitive test species (usually the Ceriodaphnia dubia).

- b. **CERTIFICATION** - The permittee must certify in writing that no test failures have occurred and that all tests meet all test acceptability criteria in item 3.a. above. In addition the permittee must provide a list with each test performed including test initiation date, species, NOECs for lethal and sub-lethal effects and the maximum coefficient of variation for the controls. Upon review and acceptance of this information the agency will issue a letter of confirmation of the monitoring frequency reduction. A copy of the letter will be forwarded to the agency's Permit Compliance System section to update the permit reporting requirements.
- c. **SUB-LETHAL OR SURVIVAL FAILURES** - If any test fails the survival or sub-lethal endpoint at any time during the life of this permit, three monthly retests are required and the monitoring frequency for the affected test species shall be increased to once per quarter until the permit is re-issued. Monthly retesting is not required if the permittee is performing a TRE.

Any monitoring frequency reduction granted applies only until the expiration date of this permit, at which time the monitoring frequency for both test species reverts to once per quarter until the permit is re-issued.

PART III STANDARD CONDITIONS

SECTION A – GENERAL CONDITIONS

1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the federal Clean Water Act and the Arkansas Water and Air Pollution Control Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; and/or for denial of a permit renewal application. **Any values reported in the required Discharge Monitoring Report (DMR) which are in excess of an effluent limitation specified in Part I shall constitute evidence of violation of such effluent limitation and of this permit.**

2. Penalties for Violations of Permit Conditions

The Arkansas Water and Air Pollution Control Act provides that any person who violates any provisions of a permit issued under the Act shall be guilty of a misdemeanor and upon conviction thereof shall be subject to imprisonment for not more than one (1) year, or a fine of not more than twenty-five thousand dollars (\$25,000) or by both such fine and imprisonment for each day of such violation. Any person who violates any provision of a permit issued under the Act may also be subject to civil penalty in such amount as the court shall find appropriate, not to exceed ten thousand dollars (\$10,000) for each day of such violation. The fact that any such violation may constitute a misdemeanor shall not be a bar to the maintenance of such civil action.

3. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause including, but not limited to the following:

- A. Violation of any terms or conditions of this permit; or
- B. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
- C. A change in any conditions that requires either a temporary or permanent reduction or elimination of the authorized discharge; or
- D. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.
- E. Failure of the permittee to comply with the provisions of APCEC Regulation No. 9 (Permit fees) as required by Part III.A.11 herein.

The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

4. Toxic Pollutants

Notwithstanding Part III.A.3, if any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under APCEC Regulation No. 2, as amended, or Section 307(a) of the Clean Water Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitations on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standards or prohibition and the permittee so notified.

The permittee shall comply with effluent standards, narrative criteria, or prohibitions established under APCEC Regulation No. 2, as amended, or Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

5. Civil and Criminal Liability

Except as provided in permit conditions for “Bypass of Treatment Facilities” (Part III.B.4), and “Upset” (Part III.B.5), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of this permit or applicable state and federal statutes or regulations which defeats the regulatory purposes of the permit may subject the permittee to criminal enforcement pursuant to the Arkansas Water and Air Pollution Control Act (Ark. Code Ann. § 8-4-101 et seq.).

6. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject to under Section 311 of the Clean Water Act.

7. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Clean Water Act.

8. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

9. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provisions of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

10. Applicable Federal, State or Local Requirements

Permittees are responsible for compliance with all applicable terms and conditions of this permit. Receipt of this permit does not relieve any operator of the responsibility to comply with any other applicable federal such as endangered species, state or local statute, ordinance or regulation.

11. Permit Fees

The permittee shall comply with all applicable permit fee requirements (i.e., including annual permit fees following the initial permit fee that will be invoiced every year the permit is active) for wastewater discharge permits as described in APCEC Regulation No. 9 (Regulation for the Fee System for Environmental Permits). Failure to promptly remit all required fees shall be grounds for the Director to initiate action to terminate this permit under the provisions of 40 CFR Parts 122.64 and 124.5(d), as adopted in APCEC Regulation No. 6 and the provisions of APCEC Regulation No. 8.

SECTION B – OPERATION AND MAINTENANCE OF POLLUTION CONTROLS**1. Proper Operation and Maintenance**

- A. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.
- B. The permittee shall provide an adequate operating staff which is duly qualified to carryout operation, maintenance, and testing functions required to insure compliance with the conditions of this permit.

2. Need to Halt or Reduce not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. Upon reduction, loss, or failure of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control

production or discharges or both until the facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power for the treatment facility is reduced, is lost, or alternate power supply fails.

3. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment or the water receiving the discharge.

4. Bypass of Treatment Facilities

A. Bypass not exceeding limitation

The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Parts III.B.4.b and 4.c.

B. Notice

1. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.
2. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part III.D.6 (24-hour notice).

C. Prohibition of bypass

1. Bypass is prohibited and the Director may take enforcement action against a permittee for bypass, unless:
 - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal or preventive maintenance; and
 - (c) The permittee submitted notices as required by Part III.B.4.b.
2. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in Part III.B.4.c(1).

5. Upset Conditions

- A. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of Part III.B.5.b of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- B. Conditions necessary for demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - 1. An upset occurred and that the permittee can identify the specific cause(s) of the upset;
 - 2. The permitted facility was at the time being properly operated.
 - 3. The permittee submitted notice of the upset as required by Part III.D.6; and
 - 4. The permittee complied with any remedial measures required by Part III.B.3.
- C. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

6. Removed Substances

- A. Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering waters of the State. The Permittee must comply with all applicable state and Federal regulations governing the disposal of sludge, including but not limited to 40 CFR Part 503, 40 CFR Part 257, and 40 CFR Part 258.
- B. Any changes to the permittee's disposal practices described in Part II of the permit will require at least 180 days prior notice to the Director to allow time for additional permitting. Please note that the 180 day notification requirement may be waived if additional permitting is not required for the change.

7. Power Failure

The permittee is responsible for maintaining adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failure either by means of alternate power sources, standby generators, or retention of inadequately treated effluent.

SECTION C – MONITORING AND RECORDS

1. Representative Sampling

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge during the entire monitoring period. All samples shall

be taken at the monitoring points specified in this permit and, unless otherwise specified, before the effluent joins or is diluted by any other waste stream, body of water, or substance. Monitoring points shall not be changed without notification to and the approval of the Director. Intermittent discharge shall be monitored.

2. Flow Measurement

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to insure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to insure the accuracy of the measurements are consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than +/- 10% from true discharge rates throughout the range of expected discharge volumes and shall be installed at the monitoring point of the discharge.

Calculated Flow Measurement

For calculated flow measurements that are performed in accordance with either the permit requirements or a Department approved method (i.e., as allowed under Part II.3), the +/- 10% accuracy requirement described above is waived. This waiver is only applicable when the method used for calculation of the flow has been reviewed and approved by the Department.

3. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit. The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals frequent enough to insure accuracy of measurements and shall insure that both calibration and maintenance activities will be conducted. An adequate analytical quality control program, including the analysis of sufficient standards, spikes, and duplicate samples to insure the accuracy of all required analytical results shall be maintained by the permittee or designated commercial laboratory. At a minimum, spikes and duplicate samples are to be analyzed on 10% of the samples.

4. Penalties for Tampering

The Arkansas Water and Air Pollution Control Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under the Act shall be guilty of a misdemeanor and upon conviction thereof shall be subject to imprisonment for not more than one (1) year or a fine of not more than ten thousand dollars (\$10,000) or by both such fine and imprisonment.

5. Reporting of Monitoring Results

Monitoring results must be reported on a Discharge Monitoring Report (DMR) form provided by the Department or other form/method approved in writing by the Department

(e.g., electronic submittal of DMR once approved). Monitoring results obtained during the previous monitoring period shall be summarized and reported on a DMR form postmarked no later than the 25th day of the month or submitted electronically by 6:00 p.m. of the 25th, following the completed reporting period beginning on the effective date of the permit. When mailing the DMRs, duplicate copies of the forms signed and certified as required by Part III.D.11 and all other reports required by Part III.D, shall be submitted to the Director at the following address:

Enforcement Branch
Water Division
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317

If permittee uses outside laboratory facilities for sampling and/or analysis, the name and address of the contract laboratory shall be included on the DMR.

6. Additional Monitoring by the Permittee

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated on the DMR.

7. Retention of Records

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Director at any time.

8. Record Contents

Records and monitoring information shall include:

- A. The date, exact place, time and methods of sampling or measurements, and preservatives used, if any;
- B. The individuals(s) who performed the sampling or measurements;
- C. The date(s) and time analyses were performed;
- D. The individual(s) who performed the analyses;
- E. The analytical techniques or methods used; and
- F. The measurements and results of such analyses.

9. Inspection and Entry

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

- A. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- B. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- C. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit, and
- D. Sample, inspect, or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

SECTION D – REPORTING REQUIREMENTS

1. Planned Changes

The Permittee shall give notice to the Director as soon as possible but no later than 180 days prior to any planned physical alterations or additions to the permitted facility [40 CFR 122.41(l)]. Notice is required only when:

- A. The alteration or addition to a permitted facility may meet one of the criteria for new sources at 40 CFR 122.29(b); or
- B. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants subject to effluent limitations in the permit, or to the notification requirements under 40 CFR 122.42(b).

2. Anticipated Noncompliance

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

3. Transfers

The permit is nontransferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act.

4. Monitoring Reports

Monitoring results shall be reported at the intervals and in the form specified in Part III.C.5. **Discharge Monitoring Reports must be submitted even when no discharge occurs during the reporting period.**

5. Compliance Schedule

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date. Any reports of noncompliance shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.

6. Twenty-four Hour Report

A. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain the following information:

1. A description of the noncompliance and its cause;
2. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
3. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

B. The following shall be included as information which must be reported within 24 hours:

1. Any unanticipated bypass which exceeds any effluent limitation in the permit;
2. Any upset which exceeds any effluent limitation in the permit and
3. Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in Part I of the permit to be reported within 24 hours to the Enforcement Section of the Water Division of the ADEQ.

C. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours to the Enforcement Section of the Water Division of the ADEQ.

7. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under Parts III.D.4, 5, and 6, at the time monitoring reports are submitted. The reports shall contain the information listed at Part III.D.6.

8. Changes in Discharge of Toxic Substances for Industrial Dischargers

The permittee shall notify the Director as soon as he/she knows or has reason to believe:

- A. That any activity has occurred or will occur which would result in the discharge on a routine or frequent basis of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the “notification levels” described in 40 CFR Part 122.42(a)(1); or
- B. That any activity has occurred or will occur which would result in any discharge on a non-routine or infrequent basis of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the “notification levels” described in 40 CFR Part 122.42(a)(2).

9. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit. Information shall be submitted in the form, manner and time frame requested by the Director.

10. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The complete application shall be submitted at least 180 days before the expiration date of this permit. The Director may grant permission to submit an application less than 180 days in advance but no later than the permit expiration date. Continuation of expiring permits shall be governed by regulations promulgated in APCEC Regulation No. 6.

11. Signatory Requirements

All applications, reports, or information submitted to the Director shall be signed and certified as follows:

A. All **permit applications** shall be signed as follows:

- 1. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
 - (a) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - (b) The manager of one or more manufacturing, production, or operation facilities, provided: the manager is authorized to make management decisions which

govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

2. For a partnership or sole proprietorship: by a general partner or proprietor, respectively; or
3. For a municipality, State, Federal, or other public agency, by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:
 - (a) The chief executive officer of the agency, or
 - (b) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

B. All **reports** required by the permit and **other information** requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

1. The authorization is made in writing by a person described above.
2. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and
3. The written authorization is submitted to the Director.

C. Certification. Any person signing a document under this section shall make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

12. Availability of Reports

Except for data determined to be confidential under 40 CFR Part 2 and APCEC Regulation No. 6, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department of Environmental Quality. As required by the Regulations, the name and address of any permit applicant or permittee, permit applications, permits, and effluent data shall not be considered confidential.

13. Penalties for Falsification of Reports

The Arkansas Air and Water Pollution Control Act provides that any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this permit shall be subject to civil penalties specified in Part III.A.2 and/or criminal penalties under the authority of the Arkansas Water and Air Pollution Control Act (Ark. Code Ann. § 8-4-101 et seq.).

PART IV DEFINITIONS

All definitions contained in Section 502 of the Clean Water Act and 40 CFR 122.2 shall apply to this permit and are incorporated herein by reference. Additional definitions of words or phrases used in this permit are as follows:

1. **“Act”** means the Clean Water Act, Public Law 95-217 (33.U.S.C. 1251 et seq.) as amended.
2. **“Administrator”** means the Administrator of the U.S. Environmental Protection Agency.
3. **“APCEC”** means the Arkansas Pollution Control and Ecology Commission.
4. **“Applicable effluent standards and limitations”** means all State and Federal effluent standards and limitations to which a discharge is subject under the Act, including, but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, and pretreatment standards.
5. **“Applicable water quality standards”** means all water quality standards to which a discharge is subject under the federal Clean Water Act and which has been (a) approved or permitted to remain in effect by the Administrator following submission to the Administrator pursuant to Section 303(a) of the Act, or (b) promulgated by the Director pursuant to Section 303(b) or 303(c) of the Act, and standards promulgated under (APCEC) Regulation No. 2, as amended.
6. **“Best Management Practices (BMPs)”** are activities, practices, maintenance procedures, and other management practices designed to prevent or reduce the pollution of waters of the State. BMPs also include treatment technologies, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw sewage. BMPs may include structural devices or nonstructural practices.
7. **“Bypass”** As defined at 122.41(m).
8. **“Composite sample”** is a mixture of grab samples collected at the same sampling point at different times, formed either by continuous sampling or by mixing a minimum of 4 effluent portions collected at equal time intervals (but not closer than one hour apart) during operational hours, within the 24-hour period, and combined proportional to flow or a sample collected at more frequent intervals proportional to flow over the 24-hour period.
9. **“Daily Discharge”** means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.
 - A. **Mass Calculations:** For pollutants with limitations expressed in terms of mass, the “daily discharge” is calculated as the total mass of pollutant discharged over the sampling day.
 - B. **Concentration Calculations:** For pollutants with limitations expressed in other units of measurement, the “daily discharge” is calculated as the average measurement of the pollutant over the day.
10. **“Daily Maximum”** discharge limitation means the highest allowable “daily discharge” during the calendar month. The 7-day average for Fecal Coliform Bacteria (FCB) or E-Coli is the geometric mean of the values of all effluent samples collected during the calendar week in colonies per 100 ml.
11. **“Department”** means the Arkansas Department of Environmental Quality (**ADEQ**).
12. **“Director”** means the Director of the Arkansas Department of Environmental Quality.
13. **“Dissolved oxygen limit”**, shall be defined as follows:

- A. When limited in the permit as a minimum monthly average, shall mean the lowest acceptable monthly average value, determined by averaging all samples taken during the calendar month;
 - B. When limited in the permit as an instantaneous minimum value, shall mean that no value measured during the reporting period may fall below the stated value.
- 14. **“E-Coli”** a sample consists of one effluent grab portion collected during a 24-hour period at peak loads. For E-Coli, report the monthly average as a 30-day geometric mean in colonies per 100 ml.
 - 15. **“Fecal Coliform Bacteria (FCB)”** a sample consists of one effluent grab portion collected during a 24-hour period at peak loads. For Fecal Coliform Bacteria (FCB) report the monthly average as a 30-day geometric mean in colonies per 100 ml.
 - 16. **“Grab sample”** means an individual sample collected in less than 15 minutes in conjunction with an instantaneous flow measurement.
 - 17. **“Industrial User”** means a nondomestic discharger, as identified in 40 CFR Part 403, introducing pollutants to a POTW.
 - 18. **“Instantaneous flow measurement”** means the flow measured during the minimum time required for the flow-measuring device or method to produce a result in that instance. To the extent practical, instantaneous flow measurements coincide with the collection of any grab samples required for the same sampling period so that together the samples and flow are representative of the discharge during that sampling period.
 - 19. **“Instantaneous Maximum”** when limited in the permit as an instantaneous maximum value, shall mean that no value measured during the reporting period may fall above the stated value.
 - 20. **“Instantaneous Minimum”** an instantaneous minimum value, shall mean that no value measured during the reporting period may fall below the stated value.
 - 21. **“Monthly average”** means the highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month. For Fecal Coliform Bacteria (FCB) or E-Coli, report the monthly average.
 - 22. **Monitoring and Reporting:**

When a permit becomes effective, monitoring requirements are of the immediate period of the permit effective date. Where the monitoring requirement for an effluent characteristic is monthly or more frequently, the Discharge Monitoring Report (DMR) shall be submitted by the 25th of the month following the sampling. Where the monitoring requirement for an effluent characteristic is Quarterly, Semi-Annual, Annual, or Yearly, the DMR shall be submitted by the 25th of the month following the monitoring period end date.

 - A. **MONTHLY:**

is defined as a calendar month or any portion of a calendar month for monitoring requirement frequency of once/month or more frequently.
 - B. **BI-MONTHLY:**

is defined as two (2) calendar months or any portion of 2 calendar months for monitoring requirement frequency of once/2 months or more frequently.
 - C. **QUARTERLY:**
 - 1. is defined as a **fixed calendar quarter** or any part of the fixed calendar quarter for a non-seasonal effluent characteristic with a measurement frequency of once/quarter.

Fixed calendar quarters are: January through March, April through June, July through September, and October through December; or

2. is defined as a **fixed three month period** (or any part of the fixed three month period) of or dependent upon the seasons specified in the permit for a seasonal effluent characteristic with a monitoring requirement frequency of once/quarter that does not coincide with the fixed calendar quarter. Seasonal calendar quarters are: May through July, August through October, November through January, and February through April.

D. SEMI-ANNUAL:

is defined as the fixed time periods January through June, and July through December (or any portion thereof) for an effluent characteristic with a measurement frequency of once/6 months or twice/year.

E. ANNUAL or YEARLY:

is defined as a fixed calendar year or any portion of the fixed calendar year for an effluent characteristic or parameter with a measurement frequency of once/year. A calendar year is January through December, or any portion thereof.

23. **“National Pollutant Discharge Elimination System”** means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under Sections 307, 402, 318, and 405 of the Clean Water Act.
24. **“POTW”** means a Publicly Owned Treatment Works.
25. **Reduction of CBOD5/BOD5 and TSS in mg/l Formula:**
$$((\text{Influent} - \text{Effluent}) / \text{Influent}) \times 100$$
26. **“Severe property damage”** means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in products.
27. **“Sewage sludge”** means the solids, residues, and precipitate separated from or created in sewage by the unit processes at a POTW. Sewage as used in this definition means any wastes, including wastes from humans, households, commercial establishments, industries, and stormwater runoff that are discharged to or otherwise enter a POTW.
28. **“7-day average”** Also known as “average weekly” means the highest allowable average of “daily discharges” over a calendar week, calculated as the sum of all “daily discharges” measured during a calendar week divided by the number of “daily discharges” measured during that week.
29. **“Treatment works”** means any devices and systems used in storage, treatment, recycling, and reclamation of municipal sewage and industrial wastes, of a liquid nature to implement section 201 of the Act, or necessary to recycle reuse water at the most economic cost over the estimated life of the works, including intercepting sewers, sewage collection systems, pumping, power and other equipment, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities, and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.
30. **Units of Measure:**
“MGD” shall mean million gallons per day.
“mg/l” shall mean milligrams per liter or parts per million (ppm).

“**µg/l**” shall mean micrograms per liter or parts per billion (ppb).

“**cfs**” shall mean cubic feet per second.

“**ppm**” shall mean parts per million.

“**s.u.**” shall mean standard units.

31. “**Upset**” means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. Any upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventive maintenance, or careless of improper operations.
32. “**Visible sheen**” means the presence of a film or sheen upon or a discoloration of the surface of the discharge. A sheen can also be from a thin glistening layer of oil on the surface of the discharge.
33. “**Weekday**” means Monday – Friday.

Fact Sheet

This Fact Sheet is for information and justification of the permit limits only. Please note that it is not enforceable. This final permitting decision is for renewal of the discharge Permit Number AR0021750 with Arkansas Department of Environmental Quality (ADEQ) Facility Identification Number (AFIN) 66-01652 to discharge to Waters of the State.

1. PERMITTING AUTHORITY.

The issuing office is:

Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317

2. APPLICANT.

The applicant's mailing address is:

City of Fort Smith - Massard Wastewater Treatment Facility
3900 Kelley Hwy.
Fort Smith, AR 72904

The facility address is:

City of Fort Smith - Massard Wastewater Treatment Facility
1609 North 9th Street
Barling, AR 72923

3. PREPARED BY.

The permit was prepared by:

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4. PERMIT ACTIVITY.

Previous Permit Effective Date:	2/1/2009
Previous Permit Modification Date:	2/19/2013
Previous Permit Modification Date:	3/01/2013
Previous Permit Expiration Date:	1/31/2014

The permittee submitted a permit renewal application on 6/28/2013 and additional information on 7/1/2013 and 7/25/2013. The discharge permit is being reissued for a 5-year term in accordance with regulations promulgated at 40 CFR Part 122.46(a).

DOCUMENT ABBREVIATIONS

In the document that follows, various abbreviations are used. They are as follows:

BAT - best available technology economically achievable
BCT - best conventional pollutant control technology
BMP - best management practice
BOD₅ - five-day biochemical oxygen demand
BPJ - best professional judgment
BPT - best practicable control technology currently available
CBOD₅ - carbonaceous biochemical oxygen demand
CD - critical dilution
CFR - Code of Federal Regulations
cfs - cubic feet per second
COD - chemical oxygen demand
COE - United States Corp of Engineers
CPP - continuing planning process
CWA - Clean Water Act
DMR - discharge monitoring report
DO - dissolved oxygen
ELG - effluent limitation guidelines
EPA - United States Environmental Protection Agency
ESA - Endangered Species Act
FCB - fecal coliform bacteria
gpm - gallons per minute
MGD - million gallons per day
MQL - minimum quantification level
NAICS - North American Industry Classification System
NH₃-N - ammonia nitrogen
NO₃ + NO₂-N - nitrate + nitrite nitrogen
NPDES - National Pollutant Discharge Elimination System
O&G - oil and grease
Reg. 2 - APCEC Regulation No. 2
Reg. 6 - APCEC Regulation No. 6
Reg. 8 - APCEC Regulation No. 8
Reg. 9 - APCEC Regulation No. 9
RP - reasonable potential
SIC - standard industrial classification
TDS - total dissolved solids
TMDL - total maximum daily load
TP - total phosphorus
TRC - total residual chlorine

TSS - total suspended solids
UAA - use attainability analysis
USF&WS - United States Fish and Wildlife Service
USGS – United States Geological Survey
WET - Whole effluent toxicity
WQMP - water quality management plan
WQS - Water Quality standards
WWTP - wastewater treatment plant

Compliance and Enforcement History:

Compliance and Enforcement History for this facility can be reviewed by using the following web link:

http://www.adeg.state.ar.us/ftpoot/Pub/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0021750_Compliance%20Report_20141013.pdf

5. SIGNIFICANT CHANGES FROM THE PREVIOUSLY ISSUED PERMIT.

The permittee is responsible for carefully reading the permit in detail and becoming familiar with all of the changes therein:

1. The Monthly Total number of Sanitary Sewer Overflows (SSOs) and the Monthly Total Volume of SSOs must be reported on the Discharge Monitoring Reports.
2. A requirement to monitor the influent and effluent of either BOD5 or CBOD5, and TSS at least once per year has been added to the current Condition No. 2 of Part II. This requirement for testing at least once per year is included to demonstrate compliance with the percent removal requirements in 40 CFR 133.102.
3. Sample type for BOD5, CBOD5, TSS, and NH3-N has been changed from 24-composite to composite with new definition of composite included in Part IV of permit.
4. A requirement for monitoring and reporting for Nitrate+Nitrite Nitrogen and Total Phosphorus has been included. (See Section 12.A of this Fact Sheet for justification).
5. The critical dilution and dilution series for Whole Effluent Toxicity testing have been changed using the revised critical flow of the receiving stream. (Calculations are shown in Section 13 of this Fact Sheet).

6. RECEIVING STREAM SEGMENT AND DISCHARGE LOCATION.

The outfall is located at the following coordinates based on the previous permit and confirmed with Google Earth using WGS84 map datum:

Latitude: 35° 21' 3.7" Longitude: 94° 18' 2.4"

The receiving waters named:

from the plant site through a 36-inch line to the Arkansas River at Pool 13 approximately 800 feet west of Lock and Dam 13 in Segment 3H of the Arkansas River Basin. The receiving stream with USGS Hydrologic Unit Code (H.U.C) of 11110104 and reach # 001 is a Water of the State classified for primary and secondary contact recreation, raw water source for domestic (public and private), industrial, and agricultural water supplies, propagation of desirable species of fish and other aquatic life, and other compatible uses.

7. 303(d) LIST, ENDANGERED SPECIES, AND ANTI-DEGRADATION CONSIDERATIONS.

A. 303(d) List:

The permittee discharges to the Arkansas River in Reach 001 of HUC 11110104 approximately 7.8 miles downstream from ADEQ monitoring station ARK0038 (Arkansas River at Van Buren). Based on the monitoring data for this station, this segment was listed on the 2008 303(d) list in Category 5f for Total Dissolved Solids (TDS) and Chlorides. Stream segments listed in Category 5f are waters that are not currently meeting a water quality standard, however, "the basis for not meeting an applicable water quality standard is not caused by a pollutant, but is attributed to other types of pollution" (EPA, 2005). Therefore, effluent limitations for TDS or Chlorides are not being included in the permit. A more detailed discussion of this evaluation is included in Section 12.A on page 8 of this Fact Sheet.

B. Endangered Species:

No comments on the application were received from the U.S. Fish and Wildlife Service (USF&WS). The draft permit and Fact Sheet were sent to the USF&WS for their review and no comments were received.

C. Anti-Degradation:

The limitations and requirements set forth in this permit for discharge into waters of the State are consistent with the Antidegradation Policy and all other applicable water quality standards found in APC&EC Regulation No. 2.

8. OUTFALL, TREATMENT PROCESS DESCRIPTION, AND FACILITY CONSTRUCTION.

The following is a description of the facility described in the application:

- A. Design Flow: 10 MGD
- B. Type of Treatment: bar screen/grit removal, primary clarification, trickling filters, activated sludge, secondary clarifiers, and UV disinfection.
- C. Discharge Description: treated municipal wastewater
- D. Facility Status: This facility is classified as a Major municipal since the design flow of the facility listed above is greater than 1.0 MGD.
- E. Facility Construction: This permit does not authorize or approve the construction or modification of any part of the treatment system or facilities. Approval for such construction must be by permit issued under Reg. 6.202.

9. ACTIVITY.

Under the Standard Industrial Classification (SIC) code of 4952 or North American Industry Classification System (NAICS) code of 22132, the applicant's activities are the operation of a sewage treatment plant.

10. INDUSTRIAL WASTEWATER CONTRIBUTIONS.

This facility receives industrial process wastewater from the significant industrial users listed in table below. Based on the applicant's effluent compliance history and the type of industrial contributions, standard Pretreatment Program implementation conditions are deemed appropriate at this time. These conditions are included in Part II.9 of the permit. In addition, a compliance schedule for pretreatment submittal requirements is included in Part IB of the permit.

Industrial Contributor	Principal Product	Process Wastewater Flow
Hiram Walker Pernod Ricard USA	Alcohol Beverages	0.037 MGD
QualServ Corp – Fort Smith Division	Furniture & fixture for retail & fast food services	0.0 MGD
Gerdau MacSteel	Steel bars	0.139 MGD
Mars Petcare	Wet Pet Food	0.03 MGD
Rheem Manufacturing Company	Commercial & Residential heating and air conditioning units	0.007 MGD
GNB Industrial Power (Exide Technologies)	Lead-Acid Industrial Storage Batteries	Not given

Industrial Contributor	Principal Product	Process Wastewater Flow
Owens Corning Composite Materials LLC	Fiberglass mats	0.028 MGD
Mercy Hospital Fort Smith	Medical care procedures, residential patient care	0.0 MGD
Trane	Commercial & Residential heating and air conditioning units	0.027 MGD

11. SEWAGE SLUDGE PRACTICES.

Sludge is dewatered onsite using a belt press and disposed of in the Fort Smith Sanitary Landfill under Solid Waste Permit No. 0267-S1-R1.

12. DEVELOPMENT AND BASIS FOR PERMIT CONDITIONS.

The Arkansas Department of Environmental Quality has made a determination to issue a final permit for the discharge described in the application. Permit requirements are based on federal regulations (40 CFR Parts 122, 124, and Subchapter N), the National Pretreatment Regulation in 40 CFR Part 403 and regulations promulgated pursuant to the Arkansas Water and Air Pollution Control Act (Ark. Code Ann. 8-4-101 et. seq.). All of the information contained in the application, including all of the submitted effluent testing data, was reviewed to determine the need for effluent limits and other permit requirements.

The following is an explanation of the derivation of the conditions of the final permit and the reasons for them or, in the case of notices of intent to deny or terminate, reasons suggesting the decisions as required under 40 CFR Part 124.7.

Technology-Based Versus Water Quality-Based Effluent Limitations And Conditions

Following regulations promulgated at 40 CFR Part 122.44, the final permit limits are based on either technology-based effluent limits pursuant to 40 CFR Part 122.44 (a) or on State water quality standards and requirements pursuant to 40 CFR Part 122.44 (d), whichever are more stringent as follows:

Parameter	Water Quality-Based		Technology-Based/BPJ		Previous Permit		Permit Limit	
	Monthly Avg. mg/l	7-day Avg. mg/l	Monthly Avg. mg/l	7-day Avg. mg/l	Monthly Avg. mg/l	7-day Avg. mg/l	Monthly Avg. mg/l	7-day Avg. mg/l
BOD5 (Nov-Apr)	> 30	> 45	30	45	30	45	30	45
CBOD5 (May-Oct)	> 25	> 40	25	40	25	37.5	25	37.5
TSS	N/A	N/A	30	45	30	45	30	45
NH3-N (May-Oct)	7*	N/A	N/A	N/A	5	7.5	5	7.5
DO	2.0 (Inst. Min.)		N/A		2.0(Inst. Min.)		2.0(Inst. Min.)	
FCB (col/100 ml)								
(Apr-Sept)	200	400	N/A	N/A	200	400	200	400
(Oct-Mar)	1000	2000	N/A	N/A	1000	2000	1000	2000
Cyanide, Total Recoverable	71 µg/l	142 µg/l	N/A	N/A	71 µg/l	142 µg/l	71 µg/l	142 µg/l
TP	N/A	N/A	Report	Report	N/A	N/A	Report	Report
NO ₃ + NO ₂ - N	N/A	N/A	Report	Report	N/A	N/A	Report	Report
pH	6.0-9.0 s.u.		6.0-9.0 s.u.		6.0-9.0 s.u.		6.0-9.0 s.u.	

* This is the NH3-N value included in the wasteload allocation modeling analysis dated 10/23/2012 and technically accepted by EPA on 2/15/2013.

A. Justification for Limitations and Conditions of the final permit:

Parameter	Water Quality or Technology	Justification
CBOD5/BOD5	Technology	40 CFR 133.102, previous permit, 40 CFR 122.44(l)
TSS	Technology	40 CFR 133.102, previous permit, 40 CFR 122.44(l)
NH3-N	Water Quality	Previous permit, Clean Water Act Section 402(o)
DO	Water Quality	Reg. 2.505, previous permit, Clean Water Act Section 402(o)
Fecal Coliform Bacteria	Water Quality	Reg. 2.507, previous permit, Clean Water Act Section 402(o)
Cyanide	Water Quality	Reg. 2.508, previous permit, Clean Water Act Section 402(o)

Parameter	Water Quality or Technology	Justification
Total Phosphorus ¹	Technology	Section titled “Nutrient Control Implementation Plan” in Appendix D of the CPP
Nitrate + Nitrite Nitrogen ¹	Technology	Section titled “Nutrient Control Implementation Plan” in Appendix D of the CPP
pH	Water Quality	Reg. 2.504, previous permit, Clean Water Act Section 402(o)

1 Monitoring and reporting (M&R) requirements for TP and NO₃+NO₂-N have been included in the permit, in accordance with section titled “Nutrient Control Implementation Plan” in Appendix D of the CPP, in order to establish a data base of point source loadings of nutrients to waters of the state.

Total Dissolved Solids (TDS) and Chlorides (Cl)

As discussed previously in Section 7.A of this Fact Sheet, Reach 001 of the Arkansas River was listed in Category 5f on the 2008 303(d) list as impaired for Total Dissolved Solids and Chlorides. During the previous permit renewal, the Department determined that neither the water quality standards for the Arkansas River or EPA’s Secondary Drinking Water Standards were exceeded or showed the potential to be exceeded as result of this discharge.

ADEQ has again reviewed the most recent information submitted by the permittee indicating the amounts of TDS and Chloride present in the effluent. Based on an e-mail dated 7/25/2013, from Steve Floyd to ADEQ, the highest effluent Chloride and TDS concentrations measured from January 2013 to July 2013 was 56.91 mg/l and 286 mg/l, respectively. The water quality standard of 250 mg/l for Chloride and 500 mg/l for TDS can be found in Section 2.511(A) of Arkansas Regulation No. 2.

The permit writer conducted a reasonable potential analysis on the reported effluent concentrations of Chlorides and TDS and concluded that neither the water quality standards for the Arkansas River or EPA’s Secondary Drinking Water Standards were exceeded or showed the potential to be exceeded as a result of this discharge. This evaluation can be viewed using the following weblinks:

[Arkansas River Upstream Flows Used In Evaluation](#)

[Reasonable Potential Evaluation for Chlorides and TDS](#)

Based on this evaluation the permit writer concluded that no permit action concerning Chlorides or TDS is necessary.

A reopener clause is established in Part II of the permit, which allows the permit to be modified, if necessary, to conform with final effluent limitations established by a approved Water Quality Management Plan (WQMP), an approved waste load allocation (WLA) as part

of a Total Maximum Daily Load (TMDL), or pollutant specific limits if a more recent 303(d) list is approved.

B. Anti-backsliding

The final permit is consistent with the requirements to meet Anti-backsliding provisions of the Clean Water Act (CWA), Section 402(o) [40 CFR 122.44(l)]. The final effluent limitations for reissuance permits must be as stringent as those in the previous permit, unless the less stringent limitations can be justified using exceptions listed in 40 CFR 122.44(l)(2)(i).

The final permit maintains the requirements of the previous permit with the exception of the following items:

1. The critical dilution and dilution series for chronic WET testing have been changed. WET testing in this permit is a monitor and report requirement with no limit established. This is not considered backsliding because backsliding regulations only address relaxation of an existing effluent limitation.

C. Limits Calculations

1. Mass limits:

In accordance with 40 CFR 122.45(f)(1), all pollutants limited in permits shall have limitations expressed in terms of mass if feasible. 40 CFR 122.45(f)(2) allows for pollutants which are limited in terms of mass to also be limited in terms of other units of measurement.

The calculation of the loadings (lbs per day) uses a design flow of 10 MGD and the following equation:

$$\text{lbs/day} = \text{Concentration (mg/l)} \times \text{Flow (MGD)} \times 8.34$$

2. 7-Day Average Limits:

The 7-Day Average limits for BOD5 and TSS are based on 40 CFR 133.102.

The 7-Day Average limits for CBOD5 and NH3-N (May through October) are based on Section 5.4.2 of the Technical Support Document for Water Quality-Based Toxics Control using the following equation:

$$\text{7-Day Average limits} = \text{Monthly average limits} \times 1.5$$

The 7-Day Average limits for Cyanide are based on Reg. 2.508.

The 7-Day Average limits for FCB are based on Reg. 2.507.

Ammonia-Nitrogen (NH3-N):

The water quality effluent limitations for Ammonia are based either on DO-based effluent limits or on toxicity-based standards, whichever are more stringent. The toxicity-based effluent limitations are based on Reg. 2.512 and the CPP.

D. 208 Plan (Water Quality Management Plan)

The 208 Plan, developed by the ADEQ under provisions of Section 208 of the federal Clean Water Act, is a comprehensive program to work toward achieving federal water goals in Arkansas. The initial 208 Plan, adopted in 1979, provides for annual updates, but can be revised more often if necessary. No changes to the 208 Plan are being made with this permit renewal.

E. Priority Pollutant Scan (PPS)

ADEQ has reviewed and evaluated the effluent in accordance with the potential toxicity of each analyzed pollutant using the procedures outlined in the Continuing Planning Process (CPP).

The concentration of each pollutant after mixing with the receiving stream was compared to the applicable water quality standards as established in the Arkansas Water Quality Standards (AWQS), Regulation No. 2 (Reg. 2.508) and criteria obtained from the "Quality Criteria for Water, 1986 (Gold Book)". Under Federal Regulation 40 CFR Part 122.44(d), as adopted by Regulation No. 6, if a discharge poses the reasonable potential to cause or contribute to an exceedance above a water quality standard, the permit must contain an effluent limitation for that pollutant. Effluent limitations for the toxicants listed below have been derived in a manner consistent with the Technical Support Document (TSD) for Water Quality-based Toxics Control (EPA, March 1991), the CPP, and 40 CFR Part 122.45(c).

The following items were used in calculations:

Parameter	Value	Source
Flow	10 MGD = 15.4 cfs	Application
7Q10	878 cfs	U.S.G.S. Station 07250550
TSS	12 mg/l	CPP
Hardness as CaCo3	125 mg/l	CPP
pH	7.51 s.u.	ARK0038, Arkansas River at Van Buren

The following pollutants were reported in the PPS:

Pollutant*	Concentration Reported, µg/l	MQL, µg/l
Arsenic	1.6	0.5
Copper	3.8	0.5
Lead	6.8	0.5
Mercury	0.01	0.005
Nickel	4.4	0.5
Zinc	52	20
Cyanide**	36	10

* All pollutants reported as Total Recoverable.

** Reasonable potential for Cyanide was not evaluated since the previous permit already contains effluent limitations for this pollutant and this limit is being continued.

ADEQ has determined from the submitted information that the discharge does not pose the reasonable potential to cause or contribute to an exceedance above a water quality standard. The evaluation can be viewed at the following weblink:

[PPS Evaluation](#)

The following effluent limits, calculated in the manner described in the CPP, are being continued from the previous permit:

Final Limits		
Substance	Monthly Average (µg/l)	7-day Average (µg/l)
Total Recoverable Cyanide	71	142

13. WHOLE EFFLUENT TOXICITY.

Section 101(a)(3) of the Clean Water Act states that ".....it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited." In addition, ADEQ is required under 40 CFR Part 122.44(d)(1), adopted by reference in Regulation 6, to include conditions as necessary to achieve water quality standards as established under Section 303 of the Clean Water Act. Arkansas has established a narrative criteria which states "toxic materials shall not be present in receiving waters in such quantities as to be toxic to human, animal, plant or aquatic life or to interfere with the normal propagation, growth and survival of aquatic biota."

Whole effluent toxicity (WET) testing is the most direct measure of potential toxicity which incorporates the effects of synergism of effluent components and receiving stream water quality characteristics. It is the national policy of EPA to use bioassays as a measure of toxicity to allow evaluation of the effects of a discharge upon a receiving water (49 Federal Register 9016-9019, March 9, 1984). EPA Region 6 and the State of Arkansas are now implementing the Post Third Round Policy and Strategy established on September 9, 1992, and EPA Region 6 Post-Third Round Whole Effluent Toxicity Testing Frequencies, revised March 13, 2000. Whole effluent toxicity testing of the effluent is thereby required as a condition of this permit to assess potential toxicity. The whole effluent toxicity testing procedures stipulated as a condition of this permit are as follows:

TOXICITY TESTS

Chronic WET

FREQUENCY

Once/quarter

Requirements for measurement frequency are based on the CPP.

The 7Q10 is more than 100 cfs (ft³/sec) but dilution ratio is less than 100:1, therefore, chronic WET testing requirements will be included in the permit.

The calculations for dilution used for chronic WET testing are as follows:

Critical dilution (CD) = (Qd/(Qd + Qb)) X 100

Qd = Design flow = 10 MGD = 15.4 cfs

7Q10 = 878 Cfs

Qb = Background flow = (0.25) X 7Q10 = 219.5 cfs

CD = (15.4) / (15.4 + 219.5) X 100 = 7 %

Toxicity tests shall be performed in accordance with protocols described in "Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms", EPA/600/4-91/002, July 1994. A minimum of five effluent dilutions in addition to an appropriate control (0%) are to be used in the toxicity tests. These additional effluent concentrations are 3%, 4%, 5%, 7%, and 9% (See the CPP). The low-flow effluent concentration (critical dilution) is defined as 7% effluent. The requirement for chronic WET tests is based on the magnitude of the facility's discharge with respect to receiving stream flow. The stipulated test species, *Ceriodaphnia dubia* and the Fathead minnow (*Pimephales promelas*) are

representative of organisms indigenous to the geographic area of the facility; the use of these is consistent with the requirements of the State water quality standards. The WET testing frequency has been established to provide data representative of the toxic potential of the facility's discharge, in accordance with the regulations promulgated at 40 CFR Part 122.48.

Results of all dilutions as well as the associated chemical monitoring of pH, temperature, hardness, dissolved oxygen conductivity, and alkalinity shall be reported according to EPA-821-R-02-013, October 2002 and shall be submitted as an attachment to the Discharge Monitoring Report (DMR).

This permit may be reopened to require further WET testing studies, Toxicity Reduction Evaluation (TRE) and/or effluent limits if WET testing data submitted to the Department shows toxicity in the permittee's discharge. Modification or revocation of this permit is subject to the provisions of 40 CFR 122.62, as adopted by reference in ADEQ Regulation No. 6. Increased or intensified toxicity testing may also be required in accordance with Section 308 of the Clean Water Act and Section 8-4-201 of the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended).

Administrative Records

The following information summarized toxicity test submitted by the permittee during the term of the current permit at outfall 001:

Permit Number:	AR0021750	AFIN:	66-00226	Outfall Number:	001
Date of Review:	10/13/2014	Reviewer:	M. Barnett		
Facility Name:	Massard Wastewater Treatment Facility				
Previous Dilution series:	3, 5, 6, 8, 11	Proposed Dilution Series:	3, 4, 5, 7, 9		
Previous Critical Dilution:	8	Proposed Critical Dilution:	7		
Previous TRE activities:	None				
Frequency recommendation by species					
<i>Pimephales promelas</i> (Fathead minnow):	once per quarter				
<i>Ceriodaphnia dubia</i> (water flea):	once per quarter				

TEST DATA SUMMARY

TEST DATE	Vertebrate		Invertebrate	
	Lethal NOEC	Sub-Lethal NOEC	Lethal NOEC	Sub-Lethal NOEC
8/3/2009	11	11	11	11
11/30/2009	11	11	11	11
3/31/2010	11	11	11	11
6/30/2010	11	11	11	11
9/30/2010	11	11	11	11
12/31/2010	11	11	11	11
3/31/2011	11	11	11	11
6/30/2011	11	11	11	11
9/30/2011	11	11	11	11
12/31/2011	11	11	11	11
3/31/2012	11	11	11	11
6/30/2012	11	11	11	11
9/30/2012	11	11	11	11
12/31/2012	11	11	11	11
3/31/2013	11	11	11	11
6/30/2013	11	11	11	11
9/30/2013	11	11	11	11
12/31/2013	11	11	11	11
3/31/2014	11	11	11	11
6/30/2014	11	11	11	11

REASONABLE POTENTIAL CALCULATIONS

	Vertebrate Lethal	Vertebrate Sub-Lethal	Invertebrate Lethal	Invertebrate Sub-Lethal
Min NOEC Observed	11	11	11	11
TU at Min Observed	9.09	9.09	9.09	9.09
Count	20	20	20	20
Failure Count	0	0	0	0
Mean	9.091	9.091	9.091	9.091
Std. Dev.	0.000	0.000	0.000	0.000
CV	0	0	0	0
RPMPF	0	0	0	0
Reasonable Potential	0.000	0.000	0.000	0.000
100/Critical dilution	14.286	14.286	14.286	14.286
Does Reasonable Potential Exist	No	No	No	No

PERMIT ACTION

P. promelas lethal - monitoring
P. promelas sub-lethal - monitoring
C. dubia lethal - monitoring
C. dubia sub-lethal - monitoring

14. SAMPLE TYPE AND FREQUENCY.

Regulations require permits to establish monitoring requirements to yield data representative of the monitored activity [40 CFR Part 122.48(b)] and to ensure compliance with permit limitations [40 CFR Part 122.44(i)(1)].

Requirements for sample type except BOD5, CBOD5, TSS, and NH3-N have been based on the current discharge permit. A requirement for 24-hr composite sampling for BOD5, CBOD5, TSS, and NH3-N has been changed to composite sampling to allow for more flexibility.

Requirements for sample type and sampling frequencies for Total Phosphorus and Nitrate+ Nitrite Nitrogen are based on the best professional judgment of the permit writer. The monthly testing frequency and a composite sample are considered sufficient to contribute information to a data base of point source loadings of nutrients to waters of the state.

Parameter	Previous Permit		Final Permit	
	Frequency of Sample	Sample Type	Frequency of Sample	Sample Type
Flow	once/day	totalizing meter	once/day	totalizing meter
BOD5				
(Nov-Apr)	once/weekday	24-hr composite	once/weekday	composite
CBOD5				
(May-Oct)	once/weekday	24-hr composite	once/weekday	composite
TSS	once/weekday	24-hr composite	once/weekday	composite
NH3-N				
(May-Oct)	once/weekday	24-hr composite	once/weekday	composite
DO	once/weekday	grab	once/weekday	grab
FCB				
(Apr-Sept)	once/weekday	grab	once/weekday	grab
(Oct-Mar)	once/weekday	grab	once/weekday	grab
Cyanide	once/quarter	grab	once/quarter	grab
TP	N/A	N/A	once/month	composite
NO ₃ + NO ₂ - N	N/A	N/A	once/month	composite
pH	once/weekday	grab	once/weekday	grab
Whole Effluent Toxicity	once/quarter	24-hr composite	once/quarter	24-hr composite

15. STORMWATER REQUIREMENTS

In lieu of storm water pollution prevention plan requirements, the permittee submitted a “No exposure certification” for exclusion from NPDES Storm water”. The tracking permit No. ARR000449 was assigned to the permittee.

16. PERMIT COMPLIANCE.

A Schedule of Compliance has been included in Part IB of this permit for pretreatment submittal requirements.

17. MONITORING AND REPORTING.

The applicant is at all times required to monitor the discharge on a regular basis and report the results monthly. The monitoring results will be available to the public.

18. SOURCES.

The following sources were used to prepare the permit:

- A. [Application No. AR0021750 received 6/28/2013 and additional information received on 7/1/2013.](#)
- B. [Arkansas Water Quality Management Plan \(WQMP\).](#)
- C. APCEC Regulation No. 2.
- D. APCEC Regulation No. 3.
- E. APCEC Regulation No. 6 which incorporates by reference certain federal regulations included in Title 40 of the Code of Federal Regulations at Reg. 6.104.
- F. 40 CFR Parts 122, 125, 133 and 403.
- G. Discharge permit file AR0021750.
- H. “2008 List of Impaired Waterbodies (303(d) List)”, ADEQ, February 2008.
- I. "Arkansas Water Quality Inventory Report 2008 (305B)", ADEQ.
- J. [Modeling report dated 10/23/2012.](#)
- K. [Continuing Planning Process \(CPP\).](#)
- L. Technical Support Document For Water Quality-based Toxic Control.
- M. [Site visit report dated 8/16/2013.](#)
- N. [E-mail dated 8/7/2013 from Mary Barnett to Marysia Jastrzebski.](#)
- O. [Compliance Report from Jackie Trotta to Shane Byrum dated 10/13/2014.](#)
- P. [E-mail dated 7/25/2013 from Steve Floyd to Marysia Jastrzebski.](#)
- Q. [E-mail dated 8/29/2013 from Marysia Jastrzebski to Steve Floyd.](#)
- R. [E-mail dated 9/4/2013 from Marysia Jastrzebski to Shane Byrum.](#)
- S. [E-mail dated 8/9/2013 from Kim Fuller to Marysia Jastrzebski.](#)
- T. [E-mail dated 7/31/2013 from Rufus Torrence to Marysia Jastrzebski.](#)
- U. [E-mail letter dated 1/13/2014 from Kim Fuller to Evelyn Rosborough requesting review of proposed draft permit.](#)

- V. [E-mail correspondence dated 1/30/2014, 2/5/2014, 2/6/2014, 2/7/2014, and 4/1/2014 between ADEQ and EPA concerning additional information requested on TDS/Chlorides and public notice of draft permit.](#)
- W. [E-mails dated 4/4/2014, 4/14/2014, and 9/29/2014 concerning status of EPA review of draft permit.](#)
- X. [Reasonable potential evaluation performed on reported PPS results dated 10/10/2014.](#)
- Y. [Background concentrations from ADEQ station ARK0038 for detected PPS pollutants.](#)
- Z. [Background values of pH from ADEQ station ARK0038.](#)
- AA. [Long Term Average flow used in PPS evaluation from USGS 07249455.](#)
- BB. [“Low Flow Characteristics and Regionalization of Low Flow Characteristics for Selected Streams in Arkansas”, USGS Scientific Investigations Report 2008-5065.](#)
- CC. [Modeling Report dated 9/3/2014.](#)
- DD. [Reasonable Potential Evaluation for Chlorides and TDS dated 10/17/2014.](#)
- EE. [Arkansas River flow rates reported from USGS Station 07250550.](#)
- FF. [Letter dated 11/19/2014 from Lance McAvoy to Shane Byrum containing comments on draft permit.](#)

19. POINT OF CONTACT.

For additional information, contact:

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Arkansas Department of Environmental Quality
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North Little Rock, Arkansas 72118-5317
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**RESPONSE TO COMMENTS
FINAL PERMITTING DECISION**

Permit No.: AR0021750

Applicant: City of Fort Smith
Massard Wastewater Treatment Facility

Prepared by: Shane Byrum

The following are responses to comments received regarding the draft permit number above and are developed in accordance with regulations promulgated at 40 C.F.R. §124.17 as incorporated in APCEC Regulation 6.104(A)(5), APCEC Regulation No. 8 Administrative Procedures, and A.C.A. §8-4-203 e(2).

Introduction

The above permit was submitted for public comment on 11/12/2014. The public comment period ended on 12/12/2014.

This document contains a summary of the comments that the ADEQ received during the public comment period. A summary of the changes to the NPDES Permit can be found on the last page of this document.

The following people or organizations sent comments to the ADEQ during the public notice. A total of 8 comments were raised by 1 commenter.

Commenter	Number of Comments Raised
1. City of Fort Smith	8

Comment 1 *Page 1 of Part 1B: Section B. Permit Compliance Schedule*

The current way this is written, the permittee may either perform Item A(1) or Item A(2) or Item B. Is that the intent of the section or should the “OR” after Item A(2) be omitted. If the “OR” is omitted, then the permittee is required to perform either Item A. (1) or Item A. (2), and Item B. Please clarify what is expected by the permittee.

Response: The permittee is required to perform either Item A(1) or Item A(2) within sixty (60) days of the effective date of the permit. In addition, the permittee is required to submit Item B (pretreatment program status report) by October 31st of each year. The word “OR” after Item A(2) in draft permit was a typographical error and will be replaced by a period “.” in final permit.

Comment 2 *Page 1 of Part II: Part II. Other Conditions, Condition No. 2*

Condition No. 2 states, “The permittee must monitor the influent and effluent BOD5 or CBOD5 and TSS at least once per year and calculate the percent removal to ensure compliance with the required 85 percent removal.” However, the Fact Sheet mentions, “A requirement to monitor the influent for BOD5, CBOD5, and TSS at least once per year has been added to the current Condition No. 2 of Part II.” The Condition No. 2 states “BOD5 or CBOD5” but the Fact Sheet alludes the wording “BOD5 and CBOD5” as the intent of the writer. Please clarify what is expected by the permittee and reword Condition No. 2 accordingly.

Response: As specified in 40 CFR 133.102, BOD5, CBOD5, and TSS are subject to the percent removal requirement. However, this regulation allows the permitting authority to substitute CBOD5 for BOD5. Therefore, the permittee can choose to demonstrate compliance with percent removal for either BOD5 or CBOD5. Part II.2 of the permit will be clarified by adding the italicized words to this condition as shown below:

“For publicly owned treatment works, the 30-day average percent removal for Biochemical Oxygen Demand (BOD5), Carbonaceous Biochemical Oxygen Demand (CBOD5), and Total Suspended Solids (TSS) shall not be less than 85 percent unless otherwise authorized by the permitting authority in accordance with 40 CFR Part 133.102, as adopted by reference in APCEC Regulation No. 6. The permittee must monitor the influent and effluent *of either* BOD5 or CBOD5, and TSS at least once per year and calculate the percent removal to ensure compliance with the required 85 percent removal. This information must be maintained on site and provided to Department personnel upon request.”

In addition, Item 2 of Section 5 of the fact sheet will be clarified by adding the italicized words as shown below:

“A requirement to monitor the influent and effluent *of either* BOD5 or CBOD5, and TSS at least once per year has been added to the current Condition No. 2 of

Part II. This requirement for testing at least once per year is included to demonstrate compliance with the percent removal requirements in 40 CFR 133.102.”

Comment 3 *Page 6 of Part II: Part II. Other Conditions, Condition No. 9.c*

This condition [in the pretreatment condition language] states, “The influent and effluent samples collected shall be composite samples consisting of at least 12 aliquots collected at approximately equal intervals over a representative 24 hour period and composited according to flow.”

The composite is defined similarly [in the WET testing condition language] on Page 14 of Part II: Other Conditions, Condition No. 10.3.d.i.

However, both of these are a different definition for composite than what is found on Page 1 of Part IV: Definitions, Definition No. 8. It would be advisable to utilize one “standard” definition for composite throughout the entire permit. If a “standard” definition for composite cannot be utilized, please explain why.

Response: Appendix E to Part 403 of the pretreatment regulations recommends that influent and effluent operational data be obtained through 24-hr flow proportional composite samples. Appendix E goes on to state that if discrete sampling (as opposed to continuous) is used, at least 12 aliquots should be composited over the 24-hr period. Since this pretreatment influent/effluent testing is only required either once/year or four/year, depending on the pollutant, the Department chooses to follow Appendix E to Part 403 requirement of composite sampling procedure of gathering at least 12 aliquots to form the composite.

Similarly, the Department chooses to continue to require 24-hr composite samples for whole effluent toxicity testing, as was required in the previous permit and in Part II.10.3.d.i , since the WET testing is only conducted once/quarter.

The permit requires Part IA parameters BOD5, CBOD5, TSS, and NH3-N to be monitored once/weekday and Part IA parameters TP and NO3+NO2-N are required to be monitored once/month. Because these pollutants are sampled more frequently than WET or Pretreatment parameters, composite samples in accordance with definition in Part IV.8 (at least 4 grabs evenly spaced over 24-hr period) is deemed adequate to gather representative samples for Part IA parameters.

For the above stated reasons, the Department has concluded that no changes to Part II.9.c (Pretreatment conditions), Part II.10.3.d.i (WET testing conditions), or Part IV.8 are needed. It is important to note that the composite sample definitions for WET and Part I parameters are referenced by footnotes under the effluent limit table in Part IA of the permit. Also worth noting, is that the definition of composite sample in Part IV.8 of the permit is the minimum requirement that should be met for Part IA parameters (BOD5, CBOD5, TSS, NH3-N, TP, and

NO₃+NO₂-N). Thus, it would be acceptable for the facility to collect 12 aliquots for Part IA parameters to be consistent with WET and Pretreatment composites, and this would meet permit requirements.

Comment 4 *Page 6 of Part II: Part II. Other Conditions, Condition No. 9.c*

[The last paragraph of Part II.9.c states,] “The influent and effluent samples collected shall be composite samples consisting of at least 12 aliquots collected at approximately equal intervals over a representative 24 hour period and composited according to flow. Sampling and analytical procedures shall be in accordance with guidelines established in 40 CFR 136. Where composite samples are inappropriate, due to sampling, holding time, or analytical constraints, at least 4 grab samples, taken at equal intervals over a representative 24 hour period, shall be taken.”

Following 40 CFR Part 136 as instructed, cyanide, total phenols, and VOAs are to be grabs, not composites. This paragraph is contradictory in that it states, “Sampling and analytical procedures shall be in accordance with guidelines established in 40 CFR 136”, yet it then states all samples are to be a composite. Please clarify what is expected by the permittee. Is the permittee to follow 40 CFR 136 or is the permittee to ignore 40 CFR 136 and utilize nothing but composite samples?

Response: As the permittee noted, the last sentence of Part II.9.c states, “Where composite samples are inappropriate, due to sampling, holding time, or analytical constraints, at least 4 grab samples, taken at equal intervals over a representative 24 hour period, shall be taken.” This is not contrary to 40 CFR 136 nor Appendix E in 40 CFR 403. In fact, 40 CFR 403, Appendix E, states, “Grab sampling should be employed where the pollutants being evaluated are those, such as cyanide and phenol, which may not be held for an extended period because of biological, chemical or physical interaction which take place after sample collection and affects the results.” Therefore, the permit already allows grab samples for total cyanide, total phenols, or any other pollutant where composite samples are inappropriate due to sampling, holding time, or analytical constraints. Thus, no changes to Part II.9.c are being made.

Comment 5 *Page 6 of Part II: Part II. Other Conditions, Condition No. 9.d*

[The last sentence of the first paragraph of Part II.9.d concerning the requirement for permittee to prepare annually a list of Industrial Users which during the preceding twelve months, were in significant noncompliance with applicable pretreatment requirements states the following:] “This list is to be published annually in the newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW during the month of October.”

Must the list be published “during the month of October” or before the end of October? As the compliance year for the Pretreatment Program ends on July 31, it might be possible to publish the list earlier than October. Please advise the permittee on the exact time frame to publish the list.

Response: To be consistent with EPA Region VI guidance and ADEQ’s approved Pretreatment City requirements, this annual list must be published during the month of October. The annual list of Industrial Users which were in significant noncompliance with applicable pretreatment requirements may be published on any day during the month of October, but no later than 4:30 pm (if electronically submitted) OR postmarked on or before the last business day in the month of October in accordance with Part II.9.d. of the final permit. To clarify this requirement, the last sentence was modified to read as follows: “This list is to be published annually, during the month of October, in the newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW.”

Comment 6 *Page 13 of Part II: Other Conditions, Condition No. 10.3.c.i*

[Part II.10.3.c.i of the draft permit states the following,] “Dilution water used in the toxicity tests will be receiving water collected as close to the point of discharge as possible but unaffected by the discharge.”

Over the last several years, the permittee has been allowed to substitute synthetic dilution water for the receiving water due to toxicity of the receiving stream (Arkansas River). The permittee asks that they may utilize synthetic dilution water based on historical failure of the control due to using the Arkansas River water. Currently synthetic dilution water is being used for the current permit requirements. Going back to using the Arkansas River water will result in an additional expense for resampling/analysis.

Response: The Department acknowledges that during the previous permit cycle, the permittee conducted WET tests using synthetic dilution water. Part II.10.3.c.ii. of the draft permit allows the permittee to substitute synthetic dilution water for the receiving water in all subsequent tests following an unacceptable receiving water test provided that the unacceptable receiving water test met the four stipulations given in (A) through (D) of this condition. The previous permit also contained the same language for dilution water. However, no records could be found documenting that these four stipulations for using synthetic dilution water were met. Therefore, the Department is unable to confirm at this time that the Arkansas River water at the discharge location is unacceptable for WET tests until this receiving water at this discharge location is shown to be unacceptable in accordance with the four stipulations given in Part II.10.3.c.ii (A) through (D). Once the receiving water is shown to be unsatisfactory as a result of instream toxicity of the control (fails to fulfill the test acceptance criteria of Part II.10.3.a.), the permittee may be allowed to substitute synthetic dilution water for the receiving water in all subsequent tests conducted during the permit term.

For clarification, the Department strongly recommends that any WET test report performed on or after the effective date of this permit, in which the permittee intends to rely upon as a basis for conducting subsequent tests using synthetic dilution water, be noted as such in the full report that is submitted to the department, so that the department can review and provide written approval for using synthetic dilution water in subsequent wet tests conducted during remainder of the permit term.

Comment 7 *Page 14 of Part II: Other Conditions, Condition No. 10.3.d.i*

[Part II.10.3.d.i of the draft permit states,] “Unless otherwise stated in this section, a composite sample for WET shall consist of a minimum of 12 subsamples gathered at equal time intervals during a 24-hour period.” The composite is defined similarly on Page 6 of Part II: Part II. Other Conditions, Condition No. 9.c. However, both of these are a different definition for composite [sample] than what is found on Page 1 of Part IV.8.

It would be advisable to utilize one “standard” definition for composite throughout the entire permit. If a “standard” definition for composite cannot be utilized, please explain why.

Response: See response to comment 3.

Comment 8 *Page 3 of Fact Sheet, Section 5, Item 2*

[Section 5, item 2 of fact sheet in draft permit states,] “A requirement to monitor the influent for BOD5, CBOD5, and TSS at least once per year has been added to the current Condition No. 2 of Part II.” However, Condition No. 2 [of Part II of the draft permit] actually states, “The permittee must monitor the influent and effluent BOD5 or CBOD5 and TSS at least once per year and calculate the percent removal to ensure compliance with the required 85 percent removal.”

Please specify what is required of the permittee by either changing Condition No. 2 or the Fact Sheet statement.

Response: See response to comment 2.

Summary of Changes to the permit				
Part	Draft Permit	Final Permit	Reason	Comment #
IB	Requires permittee to submit Item A(1) or A(2) or B.	Replaced the word “OR” after Item A(2) with a period.	Typographical error was corrected to clarify that the facility must submit either Item A(1) or A(2) within 60 days after effective date of permit, and also submit Item B by October 31 of each year.	1
II.2	The second sentence of this condition stated, “The permittee must monitor the influent and effluent BOD5 or CBOD5 and TSS at least once per year and calculate the percent removal to ensure compliance with the required 85 percent removal.”	The italicized words were added to this condition as follows, “The permittee must monitor the influent and effluent <i>of either</i> BOD5 or CBOD5, and TSS at least once per year and calculate the percent removal to ensure compliance with the required 85 percent removal.”	To clarify that the facility must demonstrate percent removal for either BOD5 or CBOD5, but not both.	2
II.9.d	The last sentence of first paragraph concerning the annual list of industrial users which were in significant noncompliance with applicable pretreatment requirements states, “This list is to be published annually in the newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW during the month of October.”	The last sentence of first paragraph will be clarified to read as follows, “This list is to be published annually, during the month of October, in the newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW.”	To clarify that this list must be published during the month of October each year.	5